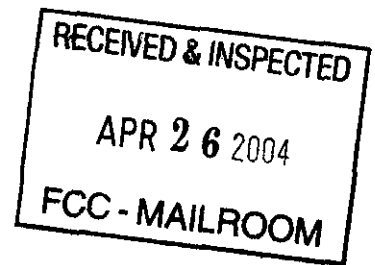




Educational Consortium for  
Telecommunications Savings

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REQUEST FOR FCC REVIEW

April 19, 2004

Federal Communications Commission  
Office of the Secretary  
445 - 12<sup>th</sup> Street, SW  
Washington, DC 20554

CC Docket No. 02-6

Request For FCC Review of SLD "Administrator's Decision on Appeal" Dated March 29, 2004

Funding Year: 2003-2004  
Applicant Name: Carteret Public Schools (New Jersey)  
Form 471 Number: 368555  
Billed Entity Number: 122652  
Contact Information: Dawn L. Belden  
133 N. State Street  
Newtown, PA 18940  
Voice Number: 215-504-5457  
Fax Number: 215-504-5047  
e-mail: dbelden@e-rate-ects.org

Dear Reader:

This letter is being provided to the FCC on a timely basis to request that the FCC review and reverse the SLD's original decision to deny funding for FRN #1004841 because of "ineligible telecom provider" and their subsequent decision not to reverse on appeal.

I have been asked by the District to handle their future e-rate applications and to represent them in this appeal to the FCC to reverse the SLD decision regarding this application.

The Carteret School District requested E-rate funding for local telephone service for the 2003 school year via FRN #1004841. This request was denied, with the SLD's denial letter citing "ineligible telecom provider" as the reason. The District filed an appeal with the SLD on September 10, 2003. This appeal was denied on March 29, 2004. The reason stated in the denial was that "the SLD can not grant a SPIN change."

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It is correct that the District did use a SPIN number on their application that did not come up on the SLD's database as an eligible telecom provider. However, we believe that there are two factors that should require the reversal of the SLD's decision not to fund this FRN.

#### First Factor

At the time of their original application, the District contacted their provider, Verizon NJ, and asked for them to provide their SPIN number for the services represented by this FRN. Verizon is a large company with many divisions. Each state has its own local telephone division and there are also divisions handling Internet access services, telephone hardware and maintenance support as well as wide and local area network hardware and maintenance support. Verizon inadvertently provided a SPIN number for one of these other divisions to the District.

The services covered in this FRN are basic telecom services. While the SPIN number provided by the carrier and used by the District in good faith was not listed on the SLD's database as an eligible telecom provider, the services were to be, and are being provided by, Verizon NJ – an eligible telecom provider. We believe that since Verizon is and is known to be an eligible telecom provider, the SLD should have approved the FRN as submitted or should have allowed a correction of the SPIN number to the proper division of Verizon.

We understand and certainly agree with the intent of the rule that requires telecom services to be taken from an eligible telecom provider (common carrier). Our assertion is that Verizon, although it has many divisions, is an eligible telecom provider and the District did not really act outside of this rule. The SLD should have used discretion in the application of the rule to reach an equitable decision that would fund the FRN.

#### Second Factor

The district received the RAL for this application on March 24, 2003. Since they were not aware of the problem with the SPIN number, they did not submit another SPIN for the Verizon NJ division at that time. The district was then selected for an "E-Rate Selective Review" on April 23, 2003. We assert that at this time in the review process the district should have been made aware of the problem and given a chance to provide the SPIN for the correct Verizon division. We are aware of other instances (for other applicants) where the SLD reviewer has contacted the applicant to make them aware of such problems on their application and has given the applicant a chance to provide the correct SPIN.

In Carteret Public School's case, there would have been no change in service providers, just a correction in the divisional SPIN set up by Verizon for their internal accounting purposes.

We believe that the SLD erred in not contacting the District during the review process and giving them a chance to correct the problem as has been done in other cases. Specifically, we are asserting that the rule should be applied with common sense to achieve the underlying objectives of the E-rate Program. While we understand the SLD's desire to conduct expedited application reviews, we believe that the district should have, in good faith, been given a chance to provide the accurate SPIN.

Public interest is best served in even-handed communication and fairness among applicants in the administration of this important funding source for schools. We do not feel that the SLD operated in bad faith, but we do respectfully submit that the outcome needs to be changed in the public interest and in accordance with the objectives of the E-rate Program itself.

The District needs the funding for its local telephone service, especially during this year of tight budgets for most schools. Loss of the funds would adversely impact the students within the District.

Please contact me should you need any further information.

Sincerely,



Dawn L. Belden for Carteret Public Schools

Certified Mail # 7003 1010 0002 7111 6455 Return Receipt Requested

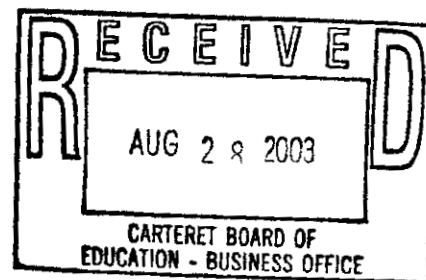
CC: Mr. Nilkanth Patel, Carteret Public Schools

Incl: FCDL Dated August 25, 2003

Letter of Appeal Dated September 10, 2003

Administrator's Decision on Appeal Dated March 29, 2004

**USAC**  
Schools and Libraries Division  
Box 125 - Correspondence Unit  
80 South Jefferson Road  
Whippany, New Jersey 07981



**TIME SENSITIVE MATERIAL**

00033  
CARTERET PUBLIC SCHOOLS  
NILKANTH PATEL  
599 ROOSEVELT AVENUE  
CARTERET, NJ 07008-2912



## IMPORTANT REMINDERS & DEADLINES

Date: August 25, 2003  
471 : 368555  
BEN : 122652

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

**FORM 486 DEADLINE** - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain documentation of your monitoring of the progress toward your stated goals.

**CHILDREN'S INTERNET PROTECTION ACT (CIPA)** - If FY2003 is your Third Funding Year for the purposes of CIPA and you apply for Internet Access or Internal Connections, you must be in compliance with CIPA and cannot request a waiver. The Supreme Court may issue an opinion in July 2003 changing the CIPA requirements - watch the SLD web site.

**INVOICE DEADLINE** - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

**OBLIGATION TO PAY NON-DISCOUNT PORTION** - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

**RETAIN DOCUMENTATION** - Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

**FREE SERVICES ADVISORY** - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information is posted to the Schools and Libraries Division (SLD) web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). Information is also available by contacting the SLD Client Service Bureau by e-mail at [question@universalservice.org](mailto:question@universalservice.org), by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



**Universal Service Administrative Company**  
Schools & Libraries Division

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**FUNDING COMMITMENT DECISION LETTER**

(Funding Year 2003: 07/01/2003 - 06/30/2004)

August 25, 2003

CARTERET PUBLIC SCHOOLS  
NILKANTH PATEL  
599 ROOSEVELT AVENUE  
CARTERET, NJ 07008-2912

**Re: Form 471 Application Number: 368555**  
**Funding Year 2003: 07/01/2003 - 06/30/2004**  
**Billed Entity Number: 122652**  
**Applicant's Form Identifier: 0750-A**

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$99,469.21 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

**NEW FOR FUNDING YEAR 2003**

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

**NEXT STEPS**

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

**FUNDING COMMITMENT REPORT**

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

**TO APPEAL THIS DECISION:**

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the SLD and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

## A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

**FORM 471 APPLICATION NUMBER:** The unique identifier assigned to a Form 471 application by the SLD.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

**FUNDING STATUS:** Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

**EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT:** The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

**CONTRACT EXPIRATION DATE:** The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES:** Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES:** Annual eligible non-recurring charges approved for the funding year.

**PRE-DISCOUNT AMOUNT:** Amount in Form 471, Block 5, Item 23I, as determined through the application review process.



DISCOUNT PERCENTAGE APPROVED BY THE SLD. This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 368555  
Funding Request Number: 1004841 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143004333 Service Provider Name: Verizon Network Integration  
Contract Number: 'T'  
Billing Account Number: 7325418960  
Earliest Possible Effective Date of Discount: 07/01/2003  
Contract Expiration Date: 06/30/2004  
Annual Pre-discount Amount for Eligible Recurring Charges: \$155,420.64  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$155,420.64  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Invalid Telecom Provider  
Funding Commitment Decision Explanation: This FRN is a request for  
Telecommunications Service from a provider that does not provide telecommunications  
on a common carriage basis.

*Carteret Board of Education*

599 ROOSEVELT AVENUE  
CARTERET, NEW JERSEY 07008-2199

Tel. (732) 541-8960 Fax: (732) 541-7028

September 10, 2003

Letter of Appeal  
Schools & Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

Re Funding Year 2003 07/01/2003 – 06/30/2004  
Funding Commitment Decision Letter Dated August 25, 2003 Form 471  
Billed Entity Name Carteret Public Schools  
Application Number 368555  
Billed Entity Number 122652  
Applicant's Form Identifier 0750-A

To Whom It May Concern

This is a **Letter of Appeal**. We are appealing the decision for Funding Request #1004841. The district used the incorrect SPIN number in the Application Form 0750-A. As per the Funding Commitment Report

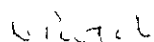
- \* Funding Commitment Decision \$0.00 – Invalid Telecom Provider
- \* Funding Commitment Decision Explanation. This FRN is a request for Telecommunications Service from a provider that does not provide telecommunications on a common carriage basis.

For Application Form 0750-A, the correct SPIN Number is **143001362** (telecommunications on a common carriage basis)

Contact Information

Nilkanth Patel, Business Administrator/Board Secretary  
599 Roosevelt Ave. Carteret, NJ 07008  
Phone Number 732-541-8960 x 6005 Fax Number 732-541-7028  
E-Mail Address [npatel@carteretschools.org](mailto:npatel@carteretschools.org)

Sincerely,



Nilkanth Patel  
Business Administrator/Board Secretary

NP kp

Attachment – Funding Commitment Report Dated August 25, 2003

FUNDING COMMITMENT REPORT

Form 471 Application Number: 368555  
Funding Request Number: 1004841 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143004333 Service Provider Name: Verizon Network Integration  
Contract Number: 'T'  
Billing Account Number: 7325418960  
Earliest Possible Effective Date of Discount: 07/01/2003  
Contract Expiration Date: 06/30/2004  
Annual Pre-discount Amount for Eligible Recurring Charges: \$155,420.64  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$155,420.64  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Invalid Telecom Provider  
Funding Commitment Decision Explanation: This FRN is a request for  
Telecommunications Service from a provider that does not provide telecommunications  
on a common carriage basis.



Universal Service Administrative Company  
Schools & Libraries Division

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**Administrator's Decision on Appeal - Funding Year 2003-2004**

March 29, 2004

Nilkanth Patel  
Carteret Board of Education  
599 Roosevelt Avenue  
Carteret, NJ 07008-2199

Re      Billed Entity Number:      122652  
         471 Application Number:      368555  
         Funding Request Number(s):      1004841  
         Your Correspondence Dated:      September 10, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2003 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number:      1004841  
Decision on Appeal:      **Denied in full**  
Explanation:

- You assert that the correct SPIN for this funding request is Verizon - New Jersey, Inc (SPIN: 143001362). You are requesting that the SLD review the appeal and reconsider the decision.
- According to information submitted as the Item 21 attachment, you requested funds for Telecom services. On Block 5, Item 13 and 14 of your Form 471, you listed Verizon Network Integration Corp., SPIN 143004333, as the service provider being used to provide these services. Verizon Network Integration Corp, Inc. does not offer these services on a common carriage basis. Per program rules, Telecom services are eligible for discount as long as the services are being provided on a common carriage basis. Since this request was denied for ineligible Telecom provider, the SLD cannot grant your request at this time for a SPIN

change to correct the service provider ineligibility. Consequently, SLD denies your appeal

- FCC regulations provide that only telecommunications carriers are eligible for universal service support. *See* 47 C.F.R. § 54.501(a). FCC regulations define telecommunications carriers as any provider of telecommunications services, and telecommunications services as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 C.F.R. § 54.5(g), (h). Because this mirrors the common law definition of a "common carrier," the FCC has determined that to be eligible to receive universal service support, the provider must provide telecommunications services on a common carrier basis. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 ¶ 134 (rel. May 8, 1997).
- SLD's review of your application determined that the telecommunications provider you selected is not eligible to receive universal service support because it does not provide telecommunications services on a common carrier basis. You did not demonstrate in your appeal that the telecommunications provider you selected is an eligible provider. Consequently, SLD denies your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company